MONTANA LEGISLATIVE HISTORY

Chapter 124 1974

Bill H 610 S _____ Original bill & history ____C

H. Committee on Local Govt		S. Committee on Local Govt	
Hearing Date(s) Jan 16	✓ C	Hearing Date(s) Feb 23	✓ C
_____	____C	_____	____C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out _____	____C		

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

JANUARY 16, 1974

PROCEEDINGS OF THE

LOCAL GOVERNMENT COMMITTEE

The meeting was called to order at 8:00 a.m. by Chairman Kosena; the secretary called roll; all were present.

HOUSE BILL 756: There was little discussion on this bill and it was passed by the committee with a unanimous vote of DO PASS.

HOUSE BILL 692: Representative Gerke, sponsor for the bill, discussed briefly the rules and regulations of housing authority in Montana. Proponants of the bill present were: Mr. Mizner, Mr. McGowan, Mr. Hatch and Mr. Monahan. The committee then voted on this bill. The vote was DO PASS with negative votes coming from Representatives Smith, Jones and Lockrem.

HOUSE BILL 681: Representative Gerke, sponsor for the bill, briefly discussed the bill and then turned it over to Mr. Tom Kelly, a lawyer from Billings. Mr. Kelly spoke on several problems of the area and how it is only constitutional that all the people of a district be able to vote; not just property owners. Cox motioned that the bill do pass. The committee voted a unanimous DO PASS.

HOUSE BILL 610: Turman, sponsor for the bill, discussed municipal judges' salaries. He turned the discussion over to Mr. Root, an attorney from Missoula. Mr. Root explained municipal judges and their duties. He said how their salaries should be set by city ordinances according to their duties. Other proponants of the bill were: Mr. Van Vaulkenberg and Mr. Mizner. Representative Lockrem moved that this bill be passed. The committee voted a unanimous DO PASS.

HOUSE BILL 745: Representative Kendall, sponsor for the bill, spoke on this bill and the many points of it. There was some disagreement as to how much the improvement fund should have in it and who should decide what it should be used for. After some discussion the bill was voted DO PASS with negative votes coming from Representatives Lockrem, Smith and Jones.

HOUSE BILL 707: Representative Healy, sponsor of the bill, discussed the jobs of constables and how they are always on call. He expressed the fact that they are just like police officers and should be paid more. Representative Cox moved that action be delayed until HB 775 be heard. The motion was seconded.

The meeting was adjourned at 8:45 a.m.

Albert E. Kosena

Albert E. Kosena, Chairman

Lois Peterson

MISSOULA COUNTY

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DRUG ABUSE SECTION
LONNIE J. DALE
FAMILY LAW SECTION
BONNIE ARGO, CLERK
KEITH A. PHELPS
INVESTIGATOR
HARRIETT RILEY
OFFICE MANAGER

January 15, 1974

Legislative Committee hearing
House Bill 610
Capitol Building
Helena, Montana 59601

Gentlemen:

House Bill 610, which deals with reform of the Municipal Court provisions of Montana law, is in my opinion a good law and one which should be enacted. The basic benefits of this law would be to give the larger counties an intermediate court with a competent trial judge to hear complex misdemeanor cases requiring more than a layman's knowledge of the law, and in addition would relieve the burdens on the district courts which are involved in trying cases of minimal jurisdictional amounts.

In reference to the civil jurisdiction of the municipal courts, it has been my observation that many attorneys do not file even the smallest cases in justice court, as they do not feel that the justices of the peace are sufficiently knowledgable of the intricate legal principles involved. As a result, these cases end up in district court, causing congestion on the civil dockets. Much the same type of situation is involved in the case of some of the more complex misdemeanor criminal prosecutions, particularly in the areas where the misdemeanor prosecutions are involvement of various regulatory statutes, such as those regulating professions and occupations, or prosecutions brought under the subdivision laws or various public health laws. Many of these prosecutions involve legal technicalities and the interpretation of statutes which frequently are more complex than the available justice of the peace wants to tackle.

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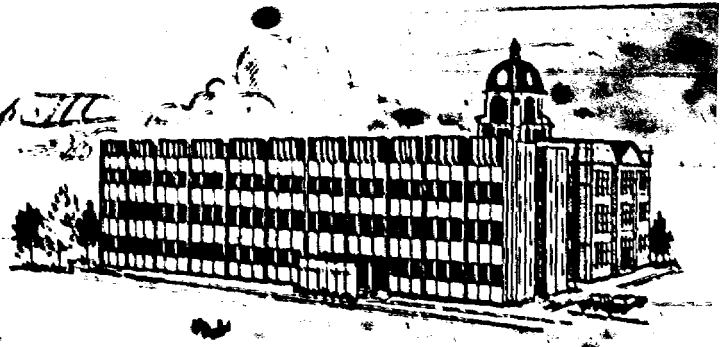
Again, I express my support for House Bill 610.

Sincerely,

Robert L. Deschamps III
Missoula County Attorney

RLD/ba



MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 23, 1974

The nineteenth meeting of the Local Government Committee was called to order by Vice Chairman Goodheart on the above date in Room 410 of the State Capitol Building at 10:30 a.m.

ROLL CALL: All members were present with the exception of Senators Thiessen, Hall and McOmber.

CONSIDERATION OF HOUSE BILL NO. 610: Providing that municipal judges' salaries be set by city ordinance.

Representative Turman, sponsor of the bill, said in 1935 legislation was enacted which permitted municipal courts in cities having a population over 20,000 and consolidating jurisdiction with justice courts in the county. The judge would be required to have the same qualifications as a district court judge, election to be non-partisan, term of office 2 years, salary $3,000. No municipal court has ever been established in Montana, presumably because the salary was stated. This bill would remove that salary limitation and permit cities to set this salary as all other city salaries - by ordinance.

CONSIDERATION OF HOUSE BILL NO. 978: Increasing the term of office of municipal court judges to four years and providing for their election; deleting the authority of municipal judges to suspend court, and remove obsolete language.

Representative Turman, sponsor of the bill, said this bill would correct other limitations of the law. It would strike 20,000 population restriction and set the term of judge at 4 years to coincide with all other city terms. It gives the judge discretion as to time of setting of the court. He presented a letter from the county attorney in Missoula as written testimony in behalf of these bills. A copy of the letter is attached hereto.

Dan Mizner, representing the League of Cities and Towns, stated that the League supports both HB 610 and HB 978.

In response to questioning, Dan Mizner said the city attorneys of Billings and Missoula had suggested possibilities of municipal courts and present caseloads in our district courts and some of the things that could be handled under municipal courts. It was suggested [illegible] to take care of those kinds of

"district" insert the following material "; provided, however, a person who is the owner or lessee of such property need not possess the qualifications required of an elector in subsections (a) and (c) of section 23-2701". This means he would not be registered as required by law or a resident of the county as required by the state of Montana.

Senator Goodheart appointed Senator Northey to meet with Senator Turnage and Representative Gerke, the sponsor, to work out the amendment.

DISPOSITION OF BILLS:

HOUSE BILL NO. 610: Senator Northey made a motion that HB 610 BE CONCURRED IN. Seconded by Senator Harrison. Motion carried 7-1. Vice Chairman Goodheart appointed Senator Harrison to carry 610 on the floor.

HOUSE BILL NO. 978: Senator Northey made a motion that HB 978 be referred to Judiciary Committee as issues of court should be determined by someone else. Seconded by Senator Story. There being no objections from the committee Vice Chairman Goodheart said he would speak to the Chairman of Judiciary Committee.

HOUSE BILL NO. 966: After a committee discussion, Senator Harrison made a motion that HB 966 BE CONCURRED IN. Seconded by Senator Klindt. Motion carried unanimously. Vice Chairman Goodheart appointed Senator James to carry 966 on the floor.

HOUSE BILL NO. 781: Senator Harrison made a motion to amend HB 781 on page 2, line 14, after the word "public" by inserting the following words "at a time and place to be designated by the city council at the previous council meeting". Seconded by Senator Northey. Motion carried unanimously.

Senator Klindt made a motion that HB 781 BE CONCURRED IN AS AMENDED. Seconded by Senator Northey. Motion carried unanimously. Vice Chairman Goodheart appointed Senator Klindt to carry HB 781 on the floor.

Senator Harrison made a motion that HB 1098

employees' retirement system of the state of Montana and the metropolitan police retirement system of the various cities of Montana shall, for the purposes of this act be deemed to constitute separate retirement systems with respect to the state and separate retirement systems with respect to each political subdivision having portions covered thereby. With respect to highway patrolmen of the state the governor is empowered to authorize a referendum and with respect to the employees of any political subdivision he shall authorize a referendum upon request of the governing body of such subdivision and in either case the referendum shall be conducted, and the governor shall designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218 (d) (3) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under this act. The notice of referendum required by section 218 (d) (3) (C) of the Social Security Act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this act.

(c) Upon receiving evidence satisfactory to him that with respect to any such referendum the conditions specified in section 218(d) (3) of the Social Security Act have been met, the governor shall so certify to the secretary of health, education, and welfare."

Approved March 11, 1974

CHAPTER NO. 123

AN ACT PERMITTING STATE AGENCIES TO CONTRACT WITH REHABILITATION ORIENTED AGENCIES WITHOUT COMPETITIVE BIDDING IN CERTAIN INSTANCES.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 82-1938, R.C.M. 1947, which reads as follows:

82-1938. **Policy.** It is the policy of the state of Montana to encourage state agencies to negotiate contracts with sheltered workshops and work activity centers principally engaged in rehabilitation programs that are located in Montana.

Section 2. There is a new section to be numbered 82-1939, R.C.M. 1947, which reads as follows:

82-1939. **Definition.** For the purpose of this act, a "sheltered workshop" and a "work activity center" mean a workshop having a sheltered workshop certificate, or an evaluation and training certificate, or a work

activities center certificate issued by the wage and hour division of the United States department of labor, or recognized by the department of social and rehabilitation services in Montana.

Section 3. There is a new section to be numbered 82-1940, R.C.M. 1947, which reads as follows:

82-1940. **Contracts negotiable without competitive bidding under certain circumstances.** State agencies may negotiate contracts for the purchase of products not exceeding five thousand dollars ($5,000) from sheltered workshops and work activity centers located in Montana without complying with the provisions of Title 82, chapter 19, concerning competitive bidding.

Approved March 11, 1974

CHAPTER NO. 124

AN ACT AMENDING SECTION 11-1704, R.C.M. 1947; PROVIDING THAT MUNICIPAL JUDGES' SALARIES BE SET BY CITY ORDINANCE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 11-1704, R.C.M. 1947, is amended to read as follows:

"11-1704. **Qualifications and salary.** Municipal judges shall have the same qualifications as judges of the district court and must be a resident and voter in the city for which he is elected at the time of his election. The salary of such judges shall be *set by city ordinance and* payable monthly by the city treasurer of the city in which such court is."

Approved March 11, 1974

CHAPTER NO. 125

AN ACT REQUIRING THE UNDERGROUND INSTALLATION OF ELECTRIC POWER DISTRIBUTION LINES IN NEW SERVICE AREAS.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 7-304, R.C.M. 1947, which reads as follows:

70-304. **Underground power lines in new service areas.** A firm, agency, or person exercising the rights conferred by section 70-301 shall